

Article - Environment

[\[Previous\]](#)[\[Next\]](#)

§5–907.

(a) The Department may not issue a nontidal wetland permit for a regulated activity unless the Department finds that the applicant has demonstrated that the regulated activity:

(1) (i) Is water dependent and requires access to the nontidal wetland as a central element of its basic function; or

(ii) Is not water dependent and has no practicable alternative;

(2) Will minimize alteration or impairment of the nontidal wetland, including existing topography, vegetation, fish and wildlife resources, and hydrological conditions;

(3) Will not cause or contribute to a degradation of groundwaters or surface waters; and

(4) Is consistent with any comprehensive management plan that may be developed in accordance with § 5–908 of this subtitle.

(b) The applicant shall demonstrate to the satisfaction of the Department that practicable alternatives have been analyzed and that the regulated activity has no practicable alternative. In evaluating whether the proposed regulated activity has a practicable alternative, the Department shall consider:

(1) Whether the basic project purpose cannot be reasonably accomplished utilizing one or more other sites in the same general area that would avoid or result in less adverse impact on nontidal wetlands;

(2) Whether a reduction in the size, scope, configuration, or density of the project as proposed and all alternative designs that would result in less adverse impact on the nontidal wetland would not accomplish the basic purpose of the project;

(3) In cases where the applicant has rejected alternatives to the project as proposed due to constraints such as inadequate zoning, infrastructure, or parcel size, whether the applicant has made reasonable attempts to remove or accommodate these constraints; and

(4) The economic value of the proposed regulated activity in meeting a demonstrated public need in the area and the ecological and economic value associated with the nontidal wetland.

[\[Previous\]](#)[\[Next\]](#)